

Before the Postal Regulatory Commission
Washington, DC 20268-0001

Public Inquiry on Regulations
Pertaining to 39 U.S.C. § 601

Docket No. PI2021-2

COMMENTS OF JAMES I. CAMPBELL JR.
(August 26, 2021)

On July 2, 2021, the Postal Regulatory Commission (Commission) issued Order No. 5930, a notice of public inquiry requesting further public input concerning what regulations promulgated by the Commission may be necessary to carry out the requirements of 39 U.S.C. § 601. I respectfully submit the following comments in the hope that they may be of assistance to the Commission. These comments represent my personal views only.¹

This public inquiry is an extension of a rulemaking that the Commission began in 2020. In Docket No. RM2020-4, the Commission issued an advance notice of proposed rulemaking inviting comments on a range of issues relating to the possible adoption of regulations pursuant to 39 U.S.C. § 601(c).² In this public inquiry, the Commission is requesting further comment on two specific questions: (1) whether Postal Service regulations administering current Sections 601(a), 601(b)(1), and 601(b)(2) should be adopted by the Commission; and (2) what private carrier services are within the scope of Section 601(b)(3). Order No. 5930 at 6.

1 Question 1: whether Postal Service regulations administering current Sections 601(a), 601(b)(1), and 601(b)(2) should be adopted by the Commission?

There are no “Postal Service regulations administering *current* §§ 601(a), 601(b)(1),

¹ These comments should not be construed as representing the views of any client of mine nor of anyone else. No other person has contributed to preparation of these comments.

² Docket No. RM2020-4, Advance Notice of Proposed Rulemaking to Consider Regulations to Carry Out the Statutory Requirements of 39 U.S.C. 601, Feb. 7, 2020 (Order No. 5422). In this comment, all references to titles 18 and 39, United States Code, are to the 2018 edition and the 2019 Supplement I, unless otherwise indicated.

and 601(b)(2).” Order No. 5930 at 6. In 2006 the Postal Accountability and Enhancement Act (PAEA)³ repealed the Postal Service’s rulemaking authority over both criminal statutes establishing the postal monopoly, 18 U.S.C. §§ 1993-99, and exceptions to the monopoly set out in 39 U.S.C. § 601. Postal Service regulations administering the postal monopoly laws prior to enactment of the PAEA — 39 C.F.R. pts. 310, 320, and 959 (2005) — are no longer in force. In establishing present docket, the Commission acknowledged as much: “Congress . . . eliminated the Postal Service’s authority to adopt any regulations creating exceptions or defining the scope of the postal monopoly.” Order No. 5930 at 4 (citing 39 U.S.C. §§ 401(2), 404(a)(1), 601). Accordingly, I interpret “regulations administering current Sections 601(a), 601(b)(1), and 601(b)(2)” as referring to provisions of the 2005 postal monopoly regulations, if any, which administered statutory provisions that are the same as or equivalent to those found in current 39 U.S.C. §§ 601(a), 601(b)(1), and 601(b)(2).⁴

1.1 39 U.S.C. § 601(a)

Section 601(a) establishes a statutory exemption from the criminal postal monopoly laws for letters conveyed in “stamped envelopes.” The gist of the stamped envelope exemption is that a letter may be carried out of the mails in circumstances that would otherwise violate the postal monopoly if the letter is enclosed in an envelope and the sender affixes and cancels the postage normally due for carriage by mail, either by applying normal postage stamps or postage meter stamps.

Section 310.2 (b)(1) of the 2005 postal monopoly regulations provides for a regulatory exemption for stamped envelopes in terms that differ slightly from the wording of the underlying statutory exemption, 39 U.S.C. § 601(a), as follows:

(a) A letter may be carried out of the mails when—

(1) it is enclosed in an envelope or other suitable cover;

(2) the amount of postage which would have been charged on the

³ Pub. L. 109-435, 120 Stat. 3198 (2006).

⁴ Sections 18 U.S.C. §§ 1693-99 and 39 U.S.C. § 601(a) have not been amended since 2005. The PAEA repealed 39 U.S.C. § 601(b) (2000 & Supp. V 2005) and replaced it with a new subsection.

letter if it had been sent ~~by mail~~ through the Postal Service is paid by stamps, or postage meter stamps, ~~on the envelope~~ on the cover or by other methods approved by the Postal Service;

(3) ~~the envelope is properly addressed~~ The name and address of the person for whom the letter is intended appear on the cover;

(4) ~~the envelope cover~~ is so sealed that the letter cannot be taken from it without defacing the ~~envelope~~ cover;

(5) any stamps on the ~~envelope~~ cover are canceled in ink by the sender; and

(6) the date of the letter, of its transmission or receipt by the carrier, is endorsed on the envelope in ink by the sender or carrier, as appropriate.

The revised wording of the regulatory exemption does not appear to make substantive changes to the statutory exemption with one notable exception. The statutory paragraph (a)(2) states that the appropriate postage must be paid “by stamps, or postage meter stamps.” The regulatory version states that the appropriate postage may also be paid “by other methods approved by the Postal Service.” One of the “other methods” for payment of postage under the stamped letter exception is set out 39 C.F.R. § 301.2(b)(2) (2005).⁵ That provision states that it is lawful to send or carry a letter out of the mail if the sender enters into a “written agreement between the shipper or the carrier of the letter and the Postal Service [that] adequately ensure[s] payment of an amount equal to the postage to which the Postal Service would have been entitled had the letters been carried in the mail.”

It appears, however, that in 2005 the Postal Service did not have authority to provide for new methods of payment under the stamped envelope exemption. The statutory history of the stamped envelope exemption strongly implies this conclusion. Until the 1930s, the stamped envelope exemption provided for payment of postage only through use of “stamped envelopes,” i.e., envelopes sold by the Post Office with postage stamped on. In 1936, the Post Office Department decided that it would be desirable to extend the stamped envelopes exemption to include envelopes with

⁵ The term “other methods” is open ended. It is unclear whether the Postal Service allows private carriage by payment methods other than an alternative payment agreement.

postage stamps or metered stamps affixed by the sender. The Post Office concluded, however, that it could not do so on its own authority, so it petitioned Congress to amend the statute. Congress finally did so in 1938.⁶ Since Congress did not further amend the statute to authorize the Postal Service to establish “other methods” for payment of postage under the stamped envelope exemption, provisions in the 2005 postal monopoly regulations providing for alternative payment agreements and “other methods” of payment must be considered ultra vires.⁷

For this reason, I suggest that the Commission not issue a regulation adopting the words “or by other methods approved by the Postal Service” in 39 C.F.R. § 301.2(b)(1)(ii) (2005) or the alternative payment provisions set out in § 301.2(b). Nor should the Commission adopt what is left of 39 C.F.R. § 301.2(b)(1) after deletion of the words “or by other methods approved by the Postal Service.” The textual revisions added by the Postal Service are not helpful or meaningful. The statutory exception created by 39 U.S.C. § 601(a) does not need regulatory gloss to add clarity.

In sum, I suggest that no Commission regulation appears necessary to carry out 39 U.S.C. § 601(a). Rather, in my view, the Commission should clarify the application of 39 U.S.C. § 601(a) by declaring void the Postal Service’s continued publication of 2005 postal monopoly regulations which, in contravention of law, purport to reword and expand § 601(a).

1.2 39 U.S.C. §§ 601(b)(1), 601(b)(2)

The second part of Question 1 asks whether Postal Service regulations

⁶ See Postal Regulatory Commission, *Study on Universal Postal Service and the Postal Monopoly*, Appendix C, Postal Monopoly Laws: History and Development of the Monopoly on the Carriage of Mail and the Monopoly on Access to Mailboxes at 100-02, 172-74 (2008) (hereafter, History and Development of the Monopoly). <https://www.prc.gov/docs/61/61628/Appendices.zip>. The study was prepared by me.

⁷ The postal monopoly is established by federal criminal statutes which establish specific penalties for violation of the postal monopoly and which are enforced by Department of Justice. By purporting to establish “other methods” for qualifying for the stamped envelope exemption, the Postal Service is effectively purporting to sell persons immunity from prosecution by the Department of Justice under these criminal statutes. Inter alia, criminal fines payable to the US Treasury are purportedly converted into income for the Postal Service.

administering current Sections 601(b)(1) and 601(b)(2) should be adopted by the Commission? As the Postal Service stated in answer to the Chairman's Information Request No. 1, "The Postal Service has not issued regulations or other 'administrative directives' in connection with sections 601(b)(1) & (2) since the effective date of amended section 601(b)."⁸

While the Postal Service's statement is technically correct, the Commission should note that in principle 39 C.F.R. § 320.6(c) (2005) construes current 39 U.S.C. § 601(b)(1). Section 320.6 of the 2005 postal monopoly regulations purported to suspend the postal monopoly laws for "extremely urgent" letters. This suspension used two alternative tests for defining extremely urgent letters: (i) letters which would lose value if not delivered within a specified time period and (ii) letters whose private carriage cost more than a specified amount. The second suspension, the price test, was set out in 39 C.F.R. § 320.6(c), "at least three dollars or twice the applicable U.S. postage for First- Class Mail (including priority mail) whichever is the greater." Section 320.6(c) went on to explain how the price test was applied to shipments containing multiple letters or letters not billed on a letter-by-letter basis:

If a single shipment consists of a number of letters that are picked up together at a single origin and delivered together to a single destination, the applicable U.S. postage may be computed for purposes of this paragraph as though the shipment constituted a single letter of the weight of the shipment. If not actually charged on a letter-by-letter or shipment-by-shipment basis, the amount paid may be computed for purposes of this paragraph on the basis of the carrier's actual charge divided by a bona fide estimate of the average number of letters or shipments during the period covered by the carrier's actual charge.

In the PAEA, Congress adopted and updated the price test exemption for the postal monopoly. Current 39 U.S.C. § 601(b)(1) states the new price test: "a letter may also be carried out of the mails when . . . the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter." The new statutory price test presents the same

⁸ Docket No. RM2020-4, Advance Notice of Proposed Rulemaking to Consider Regulations to Carry Out the Statutory Requirements of 39 U.S.C. 601, Responses of the United States Postal Service to Questions 1-3 of Chairman's Information Request No. 1 (Mar. 11, 2020) (response to question 1(a)).

question as the prior regulatory price test: how is the test applied to a single shipment with multiple letters or to shipments of letters not priced on a letter-by-letter basis?

I suggest that it would be reasonable and helpful for the Commission to adopt a regulation that incorporates the text from 39 C.F.R. § 320.6(c) (2005) to clarify application of the price test of 39 U.S.C. § 601(b)(1) to shipments with multiple letters and shipments of letters not priced on a letter-by-letter basis.

2 Question 2: what private carrier services are within the scope of § 601(b)(3).

Section 601(b)(3) of 18 U.S.C. authorizes carriage of letters outside the mail if —

such carriage is within the scope of services described by regulations of the United States Postal Service (including, in particular, sections 310.1 and 320.2-320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2005) that purport to permit private carriage by suspension of the operation of this section (as then in effect).⁹

The House committee report explained that this provision as follows:

The “grandfather clause” provided in the bill will authorize the continuation of private activities that the Postal Service has permitted under color of this section. In this way, the bill protects mailers and private carriers who have relied upon regulations that the Postal Service has adopted to date in apparent misinterpretation of the current subsection (b).¹⁰

The Senate report explained the intent of § 601(b)(3) in the following terms:

The intent of this provision to continue to allow private carriage under those circumstances in which private carriage is purportedly permitted by current Postal Service “suspensions” of the monopoly *but not to continue provisions in the Postal Service regulations that purport to condition or limit use of such “suspensions,” e.g., a requirement that customers of private carriers must permit otherwise unauthorized inspections by postal inspectors.*¹¹

In sum, § 601(b)(3) codified those portions of Postal Service’s 2005 postal

⁹ The words “the operation of this section (as then in effect)” refers to 39 U.S.C. § 601 (2000 & Supp V 2005).

¹⁰ H.R. Rep. No. 109-66 at 58 (2005).

¹¹ S. Rep. No. 108-318 at 54 (2004) (emphasis added).

monopoly regulations which *purport to permit private carriage* but did not codify provisions regulations which *purport to condition or limit use of private carriage*. The essential task in adopting regulations to implement § 601(b)(3) is separating the wheat from the chaff.

The Postal Service's 2005 postal monopoly regulations include three categories of provisions which "purport to permit private carriage by suspension": (i) items defined as non-letters in 39 C.F.R. § 310.1(a)(7); (ii) suspensions implied by categories of private carriage permitted by 39 C.F.R. § 310.3; and (iii) explicit suspensions of the postal monopoly set out in 39 C.F.R. §§ 320.2 through 320.8.

2.1 Non-letters listed in 39 C.F.R. § 310.1(a)(7) (2005)

Section 310.1(a)(7) (2005) of the 2005 postal monopoly regulations lists twelve categories of items which it declares "*are not letters with in the meaning of these regulations.*" However, in a footnote, USPS says that some of these non-letters might actually be considered "letters" by USPS:

Several of the items enumerated in this paragraph (a)(7) do not self-evidently lie outside of the definition of "letter". To the extent, however, that there is any question whether these items may properly be excluded by definition, the Postal Service has determined by adoption of these regulations that the restrictions of the Private Express Statutes are suspended pursuant to 39 U.S.C. 601(b).

Section 310.1(a)(7) does not indicate which non-letters are "not self-evidently" non-letters, but the administrative history of this paragraph explains the apparent contradiction. As originally adopted by the Postal Service in 1974, § 310.1(a)(7) included only the first seven items.¹² The final rule followed two notices of proposed rulemaking. The first introduced the concept of using (*ultra vires*) administrative suspensions to exclude items such as checks and newspapers from the definition of "letter."¹³ The second notice proposed explicit suspensions for six of the seven items

¹² Comprehensive Standards for Permissible Private Carriage, 39 Fed. Reg. 33209, 33211 (Sep. 16, 1974).

¹³ Restrictions on Private Carriage of Letters: Proposed Comprehensive Standards for Permissible Private Carriage, 38 Fed. Reg. 17512, 17515 (Jul. 2, 1973) (proposed 39 C.F.R. § 320.2(d)).

included in the final version of § 310.1(a)(7) (all except telegrams).¹⁴ Large mailers objected strenuously that such items could not reasonably be considered “letters.” In the final version of the rule, the Postal Service refused to modify its expansive definition of “letters” but moved these six items from the suspension portion of regulations (part 320) to the definition portion (§ 310.1) to mollify mailers. This was a cosmetic rather than legal revision. Much the same can be said for the last five non-letter items in § 310.1(a)(7), which were added in 1979.¹⁵ The position of the Postal Service was apparently that all of the non-letters listed in § 310.1(a)(7) are really “letters” according to the regulatory definition of “letter” set out in §§ 301.1(a)(1)-(6) but that the 2005 regulations suspended the postal monopoly as it applies to those items. After enactment of the PAEA in 2006, both the expansive regulatory definition of “letters” and the purported regulatory suspensions of the letter monopoly for “non-letters” listed in § 310.1(a)(7) are ultra vires.

It seems appropriate, therefore, for the Commission to adopt a regulation that reproduces the list of non-letters set out in 39 C.F.R. § 310.1(a)(7) (2005) and makes clear that such items may be carried out of the mails whether or not they can be considered “letters or packets” within the meaning of 18 U.S.C. §§ 1693-99.¹⁶ For example: *“The categories of items listed in 39 C.F.R. § 310.1(a)(7) (2005) (reproduced in the Appendix) may be carried out of the mail whether or not they are considered “letters or packets” within the meaning of 18 U.S.C. §§ 1693-99.”*

2.2 Implied suspension for private carriage of letters prior or subsequent to mailing, 39 C.F.R. § 310.3(e) (2005)

Sections 310.3(a) through (e) of the 2005 postal monopoly regulations purport to define and administer five statutory exemptions to the postal monopoly set out in the

¹⁴ Restrictions on Private Carriage of Letters: Proposed Comprehensive Standards for Permissible Private Carriage, 39 Fed. Reg. 3968, 3973 (Jan. 31, 1974) (proposed 39 C.F.R. § 320.2(c)(3) - (c)(8)). Telegrams were long held to be outside the postal monopoly by virtue of an 1890 Attorney General opinion. See History and Development of the Monopoly, 195 n.516.

¹⁵ See History and Development of the Monopoly, 190-98, 218-19, 237-40.

¹⁶ There is no need for the Commission to address the definition of a “letter” as used the criminal postal monopoly laws since the items listed in 39 C.F.R. § 310.1(a)(7) may be carried out of the mails no matter how “letter” is interpreted.

criminal postal monopoly laws: exemptions for (i) *cargo letters* (18 U.S.C. § 1694); (ii) *letters of the carrier* (18 U.S.C. § 1694); (iii) letters conveyed by *private hands without compensation* (18 U.S.C. § 1696(c)); (iv) letters conveyed by *special messenger* (18 U.S.C. § 1696(c)); and (v) and letters conveyed *prior to posting* (18 U.S.C. § 1696(a)).

The question presented by Commission's inquiry is whether any of the gloss upon these statutory exemptions added by the Postal Service's 2005 postal monopoly regulations allows private carriage that is not permitted by the underlying statutory provisions. If so, the additional scope for private carriage must be considered a "suspension" which has been codified by 39 U.S.C. § 601(c). Since such implicit suspensions are hardly visible to naked eye, clarification by the Commission would be helpful.

In my view, only one of the five exemptions set out in § 310.3 includes an implicit suspension that requires clarification by the Commission, the regulatory exemption for *carriage prior or subsequent to mailing* set out 39 C.F.R. § 310.3(e) (2005). This regulatory exemption purports to permit private carriage that is not permitted by the underlying statutory exemption. The underlying statute, 18 U.S.C. 1696(a), states that the prohibition against the operation of a private express for the conveyance of letters or packets "shall not prohibit any person from receiving and delivering to the *nearest* post office, postal car, or other authorized depository for mail matter any mail matter properly stamped [emphasis added]." In contrast, the regulatory exemption states far more broadly that "*The private carriage of letters which enter the mail stream at some point between their origin and their destination is permissible.*" The regulatory exemption, unlike the statutory exemption, allows carriage of letters out of the mails from any point to any post office (not only the nearest post office) and from any post office to any point. Although the regulatory exemption for *carriage prior or subsequent to mailing* is not grounded in the text of the postal monopoly laws, it correctly codifies the administrative practice of the Post Office Department going back to the early twentieth century.

I suggest that an appropriate Commission regulation implementing the implicit suspension in administering 39 C.F.R. § 310.3(e) (2005) could reference the text of the regulatory exemption as follows "*Letters which enter the mail stream at some point*

between their origin and their destination may be carried out of the mails prior or subsequent to mailing under the terms set out 39 C.F.R. § 310.3(e) (2005), reproduced in the Appendix.”

2.3 Suspensions of the postal monopoly in 39 C.F.R. pt. 320

Sections 320.2 through 320.8 of the 2005 postal monopoly regulations purport to suspend the postal monopoly laws for six categories of private carriage. In each case, Commission regulations are needed to clarify what portions of the suspension *purport to permit private carriage* and are codified 39 U.S.C. § 601(b)(3) and which portions of the suspension *purport to condition or limit use of private carriage* and are not codified by 39 U.S.C. § 601(b)(3).

2.3.1 Data processing materials, 39 CFR §§ 320.2, 320.3 (2005)

Section 320.2 of the 2005 postal monopoly regulations defines the scope of a purported suspension of the postal monopoly laws for conveyance of data processing materials to or from data processing centers according to specific time tables. Since this suspension is not defined by reference to “letters,” the suspension may include items which are not “letters or packets” within the meaning of 18 U.S.C. §§ 1693-99. Section 320.3 sets out enforcement provisions and penalties which purport to condition or limit the basic suspension by, inter alia, vesting the Postal Service with ultra vires enforcement authority over the postal monopoly.

I suggest that an appropriate Commission regulation implementing the purported suspension for data processing materials, 39 CFR §§ 320.2, 320.3 (2005), should include the suspension proper set out in § 320.2, but not enforcement provisions set out in § 320.3 or references thereto. The regulation, could provide, for example, “The items listed in the purported suspension of the postal monopoly laws for data processing materials set out in 39 C.F.R. § 320.2 (2005), reproduced in pertinent part with appropriate revisions in the Appendix, may be carried out of the mail whether or not they are considered ‘letters or packets’ within the meaning of 18 U.S.C. §§ 1693-99.”

The Appendix could set out a slightly edited version of § 320.2(a)¹⁷ without changes in paragraphs (b) and (c).

2.3.2 *University mail services, 39 CFR § 320.4 (2005)*

Section 320.4 of the 2005 postal monopoly regulations defines the scope of a purported suspension of the postal monopoly laws for conveyance of “letters” by internal mail services of universities and colleges. I suggest that two revisions should be made in referencing the operative text of this suspension. First, the suspension seeks to impose on universities and colleges the liabilities which other provisions of the 2005 postal monopoly regulations purported to impose on private carriers:

Colleges and universities choosing to provide their student or faculty organizations access to their internal mail systems are responsible for assuring that only letters of bona fide student or faculty organizations addressed to campus destinations are carried. (See § 310.4.)

I suggest this sentence and parenthetical cross reference should be deleted as purporting to condition or limit the suspension. Second, the suspension includes a cross reference to the regulatory version of the letters of the carrier exemption, 39 C.F.R. § 3103(b). I suggest that this cross reference should be revised to point to the statutory version of this exemption since the 2005 regulations are invalid.¹⁸ With these small edits, the text of the suspension could be included in an appendix to the Commission regulations.

Thus, I suggest that an appropriate Commission regulation giving effect to the purported suspension for university mail services in 39 C.F.R. § 320.4 (2005) could provide, for example, “*The letters listed in the purported suspension of the postal monopoly laws for the operation of internal mail services of universities and colleges set out in 39 C.F.R. 320.4 (2005), reproduced in pertinent part with appropriate revisions in*

¹⁷ Each suspension in part 320 begins with the words “The operation of 39 U.S.C. 601(a) (1) through (6) and § 310.2(b) (1) through (6) of this chapter is suspended on all post routes . . .” This text no longer makes sense, if it ever did. In reproducing the text of each suspension in an appendix, this introductory text could be revised to say, for example, “The operation of [this purported suspension] . . .”

¹⁸ The required revision would be as follows: “. . . the Letters of the carrier exception in ~~39 CFR 310.3(b)~~ 18 U.S.C. § 1694.”

the Appendix, may be carried out of the mail.”

2.3.3 *International ocean carriers, 39 CFR § 320.5 (2005)*

Section 320.5 of the 2005 postal monopoly regulations purports to suspend the postal monopoly laws for the conveyance of “documents” conveyed by ocean carriers which relate to the cargo but do not actually accompany the cargo. Since this suspension is not defined by reference to “letters,” the suspension may include items which are not “letters or packets” within the meaning of 18 U.S.C. §§ 1693-99. To determine whether documents qualify for this suspension, the text of the suspension cross references the exemption for “cargo letters” set out in 39 C.F.R. § 310.3(a). I suggest that the cross reference should be revised to point to the statutory exemption for cargo letters since the 2005 postal monopoly regulations are invalid.¹⁹ With this small edit, the text of the suspension could be included in an appendix to the Commission regulations.

Thus, I suggest an appropriate Commission regulation implementing the purported suspension for international ocean carriers in 39 C.F.R. § 320.5 (2005) could provide, for example, *“The items listed in the purported suspension of the postal monopoly laws for documents conveyed by international ocean carriers set out in 39 C.F.R. § 320.5 (2005), reproduced in pertinent part with appropriate revisions in the Appendix, may be carried out of the mail whether or not they are considered ‘letters or packets’ within the meaning of 18 U.S.C. §§ 1693-99.”*

2.3.4 *Extremely urgent letters, 39 CFR § 320.6 (2005)*

Section 320.6 of the 2005 postal monopoly regulations purports to suspend the postal monopoly laws for the conveyance of extremely urgent “letters.” As noted above, this suspension uses two alternative tests for defining extremely urgent letters. Section 320.6(b) defined a suspension for letters which would lose value if not delivered within a

¹⁹ Accordingly, the end of the first sentence should be revised as follows: “. . . that would be excepted under ~~§ 310.3(a)~~ the exemption for cargo letters in 18 U.S.C. 1694 if the documents accompanied the cargo.”

specified time period. Section 320.6(c) defined a suspension for letters whose private carriage cost more than a specified amount. Section 320.6(c), the price test, was effectively updated and replaced by enactment of 18 U.S.C. § 601(b)(1). What remains is the time period test in § 320.6(b). Section 320.6(d) and (e) provide enforcement conditions which purport to condition or limit use of the basic suspensions by, inter alia, vesting the Postal Service with ultra vires enforcement authority over the postal monopoly. Section 320.6(f) provides examples which no longer appear informative.

Accordingly, I suggest that an appropriate Commission regulation implementing the purported suspension for extremely urgent letters in 39 C.F.R. § 320.6 (a) and (b) (2005) could provide, for example, *“The letters listed in the purported suspension of the postal monopoly laws for extremely urgent letters set out in 39 C.F.R. § 320.6(a) and (b) (2005), reproduced in pertinent part with appropriate revisions in the Appendix, may be carried out of the mail.”*

2.3.5 *Suspension for advertisements accompanying parcels or periodicals, 39 CFR § 320.7 (2005)*

Section 320.7 of the 2005 postal monopoly regulations purported to suspend the postal monopoly laws for the conveyance of advertisements enclosed with merchandise in parcels or accompanying periodicals. Since this suspension is not defined by reference to “letters,” it should be noted that the suspension may include items which are not “letters or packets” within the meaning of 18 U.S.C. §§ 1693-99.

I suggest that an appropriate Commission regulation implementing the purported suspension for advertisements accompanying parcels or periodicals in 39 C.F.R. § 320.7 could provide, for example, *“The items listed in the purported suspension of the postal monopoly laws for advertisements conveyed with parcels or periodicals set out in 39 C.F.R. § 320.7 (2005), reproduced in pertinent part with appropriate revisions in the Appendix, may be carried out of the mail whether or not they are considered ‘letters or packets’ within the meaning of 18 U.S.C. §§ 1693-99.”*

2.3.6 *Suspension for international remailing, 39 CFR § 320.8 (2005)*

Section 320.8 of the 2005 postal monopoly regulations purports to suspend the postal monopoly laws for the conveyance of letters sent from a point in the United States to a foreign country for deposit in its domestic or international mails for delivery to an ultimate destination outside the United States. The basic suspension is set out in §§ 320.8(a) and (b). Section 320.8(c) includes enforcement provisions which purport to condition or limit the basic suspension by, inter alia, vesting the Postal Service with ultra vires enforcement authority over the postal monopoly.

I suggest that an appropriate Commission regulation implementing the purported suspension for international remailing in 39 C.F.R. § 320.8 could provide, for example, *“The letters listed in the purported suspension of the postal monopoly laws for international remail set out in 39 C.F.R. §§ 320.8(a) and (b) (2005), reproduced in pertinent part with appropriate revisions in the Appendix, may be carried out of the mail.”*

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